IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH

C.W.P. NO. 16201 OF 2006

Date of Decision: April 17, 2007

Salochna Goyal Petitioner

Versus

Punjab State Electricity Board and others Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Baljit Puri, Advocate,
for the petitioner.

Mr. Somesh Gupta, Advocate,
for the respondents.

JUDGMENT

M. M. KUMAR, J.

The short issue raised in this petition is for issuance of a writ in the nature of certiorari for quashing of impugned order/letter dated 18.8.2006 (P-2), passed by respondent No. 3, deducting an amount of Rs. 20,500/- from the pension of the petitioner on account of Dearness Allowance payable on pension in respect of the period starting from August, 2002 to March, 2003.

Mr. Baljit Puri, learned counsel for the petitioner has argued that no recovery could be effected in view of settled principle

of laws as laid down by Hon'ble the Supreme Court in case of **Sahib Ram v. State of Haryana, 1995 (1) SCT 668**. According to the learned counsel, there is no element of fraud or misrepresentation on the part of the petitioner and in these circumstances no recovery can be fastened on her.

However, Mr. Somesh Gupta, learned counsel for the respondents, has argued that once it is accepted that payment of excess amount has been made to the petitioner, then the natural consequence of recovery must follow. According to him, such a course would be available by permitting the respondents to recover the amount by way of easy instalments.

After hearing the learned counsel for the parties, we are of the considered view that in Sahib Ram' case (supra), Hon'ble the Supreme Court has categorically laid down that no recovery could be effected from an employee in the absence of misrepresentation or fraud on the part of the employee. Accordingly, the order dated 18.8.2006 (P-2) is hereby quashed and it is directed that no recovery shall be made from the petitioner.

Writ petition stands disposed of.

(M.M. KUMAR)
JUDGE

(RAJESH BINDAL)
JUDGE

April 17, 2007
Pkapoor